

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALI'FORNIA

In the Matter of the Appeal of)
JAMES W. HAMM)

Appearances:

Yor Appellant: James W. Hamm,
in pro. per.

For Respondent: Kendall E. Kinyon
Carl G. Knopke
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of James W. Hamm against a proposed assessment of personal income tax and penalties in the total amount of \$2,196.00 for the year 1979.

Appeal of James W. Hamm

The sole issue presented is whether appellant has shown respondent's determination to be erroneous.

Respondent received information from the Employment Development Department (EDD) showing that appellant had taxable income for the year 1979. Finding no record of a personal income tax return from appellant for that year, respondent demanded that he file the required return. Appellant did not respond to **this** demand. Respondent then issued a proposed assessment based on the income information from EDD and imposed penalties for failure to file and failure to file after notice and demand.' Appellant protested, but respondent **affirmed** the proposed assessment. This timely appeal followed.

It is well settled that respondent's determinations are presumptively correct, and appellant bears the burden of showing that respondent's determination, including the penalties imposed, is incorrect. (Appeal of Richard L. Starnes, Cal. St. Bd. of Equal., Jan. 6, 1981; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) Appellant has merely stated that he is not a taxpayer and does not owe any tax., In light of such a total failure of proof, we must sustain respondent's action.

Appeal of James W. Hamm

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of James W. Hamm against a proposed assessment of personal income tax and penalties in the total amount of **\$2,196.00** for the year 1979, be and the same is hereby sustained.

Done at Sacramento, California, this 1st day of March , 1983, by the State Board of Equalization, with Board **Members** Mr. Dronenburg, Mr. Collis, Mr. Nevins and Mr. Harvey present.

_____, Chairman

Ernest J. Dronenburg, Jr., Member

Conway H. Collis, Member

Richard Nevins, Member

Walter Harvey*, Member

*For Kenneth Cory, per Government Code Section 7.9